

§ 2.801 Radiofrequency device defined.

As used in this part, a radiofrequency device is any device which in its operation is capable of emitting radiofrequency energy by radiation, conduction, or other means. Radiofrequency devices include, but are not limited to:

(a) The various types of radio communication transmitting devices described throughout this chapter.

(b) The incidental, unintentional and intentional radiators defined in part 15 of this chapter.

(c) The industrial, scientific, and medical equipment described in part 18 of this chapter.

(d) Any part or component thereof which in use emits radiofrequency energy by radiation, conduction, or other means.

[35 FR 7898, May 22, 1970, as amended at 54 FR 17711, Apr. 25, 1989]

§ 2.803 Marketing of radio frequency devices prior to equipment authorization.

(a) Marketing, as used in this section, includes sale or lease, or offering for sale or lease, including advertising for sale or lease, or importation, shipment, or distribution for the purpose of selling or leasing or offering for sale or lease.

(b) *General rule.* No person may market a radio frequency device unless:

(1) For devices subject to authorization under certification, the device has been authorized in accordance with the rules in subpart J of this chapter and is properly identified and labeled as required by § 2.925 and other relevant sections in this chapter; or

(2) For devices subject to authorization under verification or Declaration of Conformity in accordance with the rules in subpart J of this chapter, the device complies with all applicable technical, labeling, identification and administrative requirements; or

(3) For devices that do not require a grant of equipment authorization under subpart J of this chapter but must comply with the specified technical standards prior to use, the device complies with all applicable, technical, labeling, identification and administrative requirements.

(c) *Exceptions.* The following marketing activities are permitted prior to equipment authorization:

(1) Activities under market trials conducted pursuant to subpart H of part 5.

(2) Limited marketing is permitted, as described in the following text, for devices that could be authorized under the current rules; could be authorized under waivers of such rules that are in effect at the time of marketing; or could be authorized under rules that have been adopted by the Commission but that have not yet become effective. These devices may not be operated unless permitted by § 2.805.

(i) Conditional sales contracts (including agreements to produce new devices manufactured in accordance with designated specifications) are permitted between manufacturers and wholesalers or retailers provided that delivery is made contingent upon compliance with the applicable equipment authorization and technical requirements.

(ii) A radio frequency device that is in the conceptual, developmental, design or pre-production stage may be offered for sale solely to business, commercial, industrial, scientific or medical users (but not an offer for sale to other parties or to end users located in a residential environment) if the prospective buyer is advised in writing at the time of the offer for sale that the equipment is subject to the FCC rules and that the equipment will comply with the appropriate rules before delivery to the buyer or to centers of distribution.

(iii) (A) A radio frequency device may be advertised or displayed, (*e.g.*, at a trade show or exhibition) if accompanied by a conspicuous notice containing this language:

This device has not been authorized as required by the rules of the Federal Communications Commission. This device is not, and may not be, offered for sale or lease, or sold or leased, until authorization is obtained.

(B) If the device being displayed is a prototype of a device that has been properly authorized and the prototype, itself, is not authorized due to differences between the prototype and the authorized device, this language may